



changes to North Carolina prison policy allowing additional privileges to inmates in restrictive housing. [Id.].

Plaintiff alleges that he has not filed any other lawsuits involving these same facts. [Id. at 8]. Before the Plaintiff filed the instant action, however, he filed a strikingly similar § 1983 action in this Court that centers on the same allegations and in which he named Defendant Carroll and Officers Lay and Adkins as Defendants. [See Civil Case No. 5:24-cv-96-MR-SCR, Doc. 1]. Just days before Plaintiff filed the instant Complaint, Plaintiff's Complaint in that action passed initial review in accordance with the Court's Order. [Id., Doc. 8].

## **II. STANDARD OF REVIEW**

Because the Plaintiff is proceeding in forma pauperis, the Court must review the Complaint to determine whether it is subject to dismissal on the grounds that it is "frivolous or malicious [or] fails to state a claim on which relief may be granted." 28 U.S.C. § 1915(e)(2). Furthermore, under § 1915A the Court must conduct an initial review and identify and dismiss the complaint, or any portion of the complaint, if it is frivolous, malicious, or fails to state a claim upon which relief may be granted; or seeks monetary relief from a defendant who is immune to such relief. 28 U.S.C. § 1915A.

In its frivolity review, this Court must determine whether a complaint raises an indisputably meritless legal theory or is founded upon clearly baseless factual contentions, such as fantastic or delusional scenarios. Neitzke v. Williams, 490 U.S. 319, 327-28 (1989). Furthermore, a pro se complaint must be construed liberally. Haines v. Kerner, 404 U.S. 519, 520 (1972). However, the liberal construction requirement will not permit a district court to ignore a clear failure to allege facts in his Complaint which set forth a claim that is cognizable under federal law. Weller v. Dep't of Soc. Servs., 901 F.2d 387 (4th Cir. 1990).

### **III. DISCUSSION**

This action is so overlapping and duplicative of Case No. 5:24-cv-96-MR-SCR that the Court cannot allow the two actions to proceed simultaneously. Because the Plaintiff filed the proceedings in the other case first, the Court will dismiss the instant action without prejudice.

### **IV. CONCLUSION**

In sum, this action is duplicative of Case No. 5:24-cv-96-MR-SCR and, as such, the Court will exercise its inherent authority to dismiss this action without prejudice.

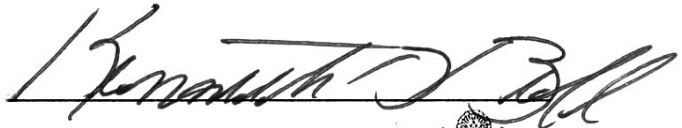
### **ORDER**

**IT IS, THEREFORE, ORDERED** that this action is **DISMISSED WITHOUT PREJUDICE**.

The Clerk is respectfully instructed to terminate this case.

**IT IS SO ORDERED.**

Signed: June 13, 2024

A handwritten signature in black ink, appearing to read "Kenneth D. Bell", written over a horizontal line.

Kenneth D. Bell  
United States District Judge

